

GORDON SILVER

MICHAEL N. FEDER

Nevada Bar No. 7332

Email: mfeder@gordonsilver.com

JUSTIN J. BUSTOS

Nevada Bar No. 10320

Email: jbustos@gordonsilver.com

ANJALI D. WEBSTER

Nevada Bar No. 12515

Email: awebster@gordonsilver.com

100 W. Liberty Street, Suite 940

Reno, Nevada 89501

Tel: (775) 343-7500

Fax: (775) 786-0103

ULMER & BERNE LLP

FRANCES FLORIANO GOINS (*Admitted Pro Hac Vice*)

Email: fgoins@ulmer.com

1660 West 2nd Street, Suite 1100

Cleveland, OH 44113

Tel: (216) 583-7202

Fax: (216) 583-7203

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CHINA ENERGY CORPORATION, a Nevada
corporation,

Plaintiff,

vs.

ALAN T. HILL, ELENA SAMMONS,
MICHAEL SAMMONS, THOMAS S.
VREDEVOOGD, TRUSTEE OF THE
KIMBERLY J. VREDEVOOGD TRUST UA
1007/2008, JUN HE, and RANDY DOCK
FLOYD,

Defendants.

CASE NO. 3:13-cv-00562-MMD-VPC

**PLAINTIFF CHINA ENERGY CORPORATION'S RESPONSES TO THIRD-PARTY
DEFENDANT COR CLEARING, LLC'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF
CHINA ENERGY CORPORATION**

Pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure, PLAINTIFF
CHINA ENERGY CORPORATION ("CEC"), by and through its attorneys at the law firms of

1 GORDON SILVER and ULMER & BERNE LLP, hereby objects and responds to Third-Party
2 Defendant COR Clearing, LLC's ("COR") discovery requests as follows:

3 **GENERAL OBJECTIONS**

4 A. CEC objects to each discovery request to the extent that it seeks the
5 disclosure of information, documents, or data that is vexatious or unduly burdensome to
6 ascertain or obtain, or unjustifiably or unreasonably requires CEC to do the Third-Party
7 Defendant's work. ("Undue Burden").

8 B. CEC objects to each discovery request to the extent that it seeks the
9 disclosure of information, documents, or data which are beyond the permissible scope of Rule
10 26(b) of the Federal Rules of Civil Procedure as being irrelevant to the subject matter of this
11 action and not reasonably calculated to lead to the document of admissible evidence.
12 ("Relevance").

13 C. CEC objects to each discovery request to the extent that it requests the
14 disclosure of information, documents or data incorporating or containing information which is
15 protected by the attorney-client privilege, the work product privilege or other privileges, or
16 which is material prepared in anticipation of litigation or for trial within the meaning of the
17 Federal Rules of Civil Procedure, upon the grounds that such privileged matter is exempt from
18 discovery, and that trial preparation material may only be discoverable upon satisfaction of the
19 prerequisites delineated in Rule 26(b)(3) of the Federal Rules of Civil Procedure, which
20 prerequisites have not been satisfied. ("Privilege").

21 D. CEC objects to each discovery request to the extent that it seeks the
22 disclosure of confidential, proprietary, and/or trade secret information. ("Confidential
23 Information").

24 E. CEC objects to each discovery request to the extent that it requests that
25 CEC respond on behalf of any entity other than CEC, and to the extent that it seeks information
26 or documents from or with respect to other entities, which information is not available to CEC or
27 which documents are not within the possession, custody or control of CEC, upon the ground that
28

1 such request exceeds the permissible scope of discovery under Rules 26, 33, and 34 of the
2 Federal Rules of Civil Procedure. ("Availability and Control").

3 F. CEC objects to each discovery request to the extent that it is vague,
4 ambiguous, confusing or overbroad or otherwise lacks sufficient precision or particularity to
5 permit formulation of a response. ("Vagueness and Overbreadth").

6 G. CEC objects to each discovery request to the extent that it calls for a
7 response, identification of documents or other action by Defendant beyond that required by
8 Rules 26, 33, or 34 of the Federal Rules of Civil Procedure. ("Scope").

9 H. CEC objects to each discovery request to the extent that it seeks
10 information or documents that, because discovery is ongoing, are not yet available to CEC or
11 that will be governed by scheduling and trial orders not yet issued by the Court. ("Premature").

12 CEC asserts each of the general objections stated above (the "General
13 Objections") to each of the Interrogatories and Requests for Production of Documents below that
14 is objectionable on the stated ground. The specific enumeration of objections below is for the
15 sake of the Defendant's convenience. By stating such specific enumerations below, the
16 undersigned does not intend to limit or restrict the General Objections contained in the responses
17 below.

18 19 **REQUESTS FOR PRODUCTION OF DOCUMENTS AND INTERROGATORIES**

20 **Request / Interrogatory No. 1.** Identify by name and address all shareholders of CEC who CEC
21 agrees properly perfected their dissenter's rights to the reverse stock split of CEC pursuant to
Chapter 92A of the Nevada Revised Statutes.

22 **RESPONSE:**

23 **General Objections: Vagueness & Overbreadth; Relevance.** This litigation concerns the
24 Defendants Alan Hill, Michael Sammons, *et al.* and their failure to properly perfect their
25 dissenters' rights. This interrogatory, which asks the Plaintiff to identify stockholders who
26 Plaintiff believes "properly perfected" their dissenters' rights, seeks irrelevant information
27 which is not calculated to lead to the discovery of admissible evidence. Subject to and
28 without waiving those objections or any of Plaintiff's General Objections, all of which are
incorporated by reference as if fully rewritten herein, Plaintiff states that while the vast
majority of Plaintiff's stockholders of record (and related beneficial owners) accepted

1 Plaintiff's fair value determination and completed and returned the documentation
 2 necessary to receive payment for their pre-split shares, in cash, only the defendants in this
 3 case elected to exercise dissenters' rights, and all of them failed to properly exercise and
 4 perfect their dissenters' rights pursuant to Chapter 92A of the Nevada Revised Statutes.

5 Request / Interrogatory No. 2. Identify the price per share that the shareholders who CEC
 6 agrees properly perfected their dissenter's rights pursuant to Chapter 92A of the Nevada Revised
 7 Statutes received for their CEC shares.

8 **RESPONSE:**

9 **General Objections: Vagueness & Overbreadth; Relevance.** This litigation concerns the
 10 Defendants Alan Hill, Michael Sammons, *et al.* and their failure to properly perfect their
 11 dissenters' rights. This interrogatory, which asks the Plaintiff to state the amount received
 12 by stockholders who Plaintiff believes "properly perfected" their dissenters' rights, seeks
 13 irrelevant information which is not calculated to lead to the discovery of admissible
 14 evidence. Furthermore, this interrogatory proceeds from a false premise because Plaintiff
 15 is not aware of any stockholders that properly perfected their dissenters' rights.

16 Request / Interrogatory No. 3. Identify the seven (7) CEC shareholders of record that reside
 17 outside of the People's Republic of China that were sent a form transmittal letter and a dissenter's
 18 rights notice in July 2013.

19 **RESPONSE:**

20 The seven (7) CEC stockholders of record that resided outside of China and that were sent
 21 a form transmittal letter and dissenters' rights packages in July 2013 were the following:
 22 (1) Cede & Co.; (2) Robert Drewett; (3) Matthew Hayden; (4) William D. Heurlin; (5)
 23 Kingdom Building Inc.; (6) Johnny Lai; and (7) Scott Powell.

24 Request / Interrogatory No. 4. Produce all documents that CEC (or its agents, employees,
 25 assigns or someone acting its behalf) received from CEC shareholders who CEC agrees properly
 26 perfected their dissenter's rights to the CEC reverse stock split (or their agents or someone acting
 27 on their behalf) pursuant to Chapter 92A of the Nevada Revised Statutes.

28 **RESPONSE:**

General Objections: Vagueness & Overbreadth; Availability & Controls Relevance. This
 litigation concerns the Defendants Alan Hill, Michael Sammons, *et al.* and their failure to
 properly perfect their dissenters' rights. This interrogatory, which asks the Plaintiff to
 state the amount received by stockholders who Plaintiff believes "properly perfected" their
 dissenters' rights, seeks irrelevant information which is not calculated to lead to the
 discovery of admissible evidence. Furthermore, this request proceeds from a false premise

1 because Plaintiff is not aware of any stockholders that properly perfected their dissenters' rights.

2
3 **Request / Interrogatory No. 5.** Produce all documents that CEC (or their agents, employees, assigns or someone acting on their behalf) sent to the shareholders of CEC who CEC agrees properly perfected their dissenter's rights to the CEC reverse stock split (or their agents or someone acting on their behalf) pursuant to Chapter 92A of the Nevada Revised Statutes.

6
7 **RESPONSE:**

8 **General Objections: Vagueness & Overbreadth; Relevance.** This litigation concerns the Defendants Alan Hill, Michael Sammons, *et al.* and their failure to properly perfect their dissenters' rights. This interrogatory, which asks the Plaintiff to state the amount received by stockholders who Plaintiff believes "properly perfected" their dissenters' rights, seeks irrelevant information which is not calculated to lead to the discovery of admissible evidence. Furthermore, this request proceeds from a false premise because Plaintiff is not aware of any stockholders that properly perfected their dissenters' rights.

12
13 DATED this 23rd day of July, 2014.

14 **GORDON SILVER**

15
16 
17 **MICHAEL N. FEDER**

Nevada Bar No. 7332

18 **JUSTIN J. BUSTOS**

Nevada Bar No. 10320

19 **ANJALI D. WEBSTER**

Nevada Bar No. 12515

20 100 W. Liberty Street, Suite 940

Reno, Nevada 89501

21 **ULMER & BERNE LLP**

22 **FRANCES FLORIANO GOINS**

(Admitted Pro Hac Vice)

23 1660 West 2nd Street, Suite 1100

Cleveland, OH 44113

24 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

The undersigned, an employee of Gordon Silver, hereby certifies that she served a copy of **PLAINTIFF CHINA ENERGY CORPORATION'S RESPONSES TO THIRD-PARTY DEFENDANT COR CLEARING, LLC'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO PLAINTIFF CHINA ENERGY CORPORATION** VIA Email, on July 23rd 2014 to the following individuals:

Richard L. Elmore, Esq.
Holland & Hart
5441 Kietzke Lane, 2nd Floor
Reno, NV 89511
RElmore@hollandhart.com

Michael Sammons
15706 Seekers St
San Antonio, TX 78255
michaelsammons@yahoo.com

Edmund J. Gorman Jr.
Attorney at Law, Ltd.
335 W. First Street
Reno, Nevada 89503
ejgormanjr@ejgormanlaw.com

Daniel T. Hayward, Esq.
LAXALT & NOMURA
9600 Gateway Drive
Reno, Nevada 89521
dhayward@laxalt-nomura.com

Bret F. Meich
ARMSTRONG TEASDALE
3770 Howard Hughes Parkway
Suite 200
Las Vegas, NV 89169
bmeich@armstrongteasdale.com

Peter J. Tepley
Meredith Lees
Rebecca Beers
RUMBERGER KIRK & CALDWELL
2204 Lakeshore Drive, Suite 125
Birmingham, AL 35209
ptepley@rumberger.com

Elena Sammons
15706 Seekers St
San Antonio, TX 78255
draelena@yahoo.com

Randy Dock Floyd
4000 Goff Road
Aynor, SC 29551
dockflo@yahoo.com

Jun He
231 Split Rock Rd
The Woodlands, TX 77381
jun_helen@yahoo.com


An employee of GORDON SILVER